

EXHIBIT D

Drakeford v. Dell Inc. and Kevin Rollins
Docket No. 07-CV-3490 (RMB) (DFE)



Dell Terms and Conditions of Sale — Home, Home Office, and Small Business Customers

PLEASE READ THIS DOCUMENT CAREFULLY! IT CONTAINS VERY IMPORTANT INFORMATION ABOUT YOUR RIGHTS AND OBLIGATIONS, AS WELL AS LIMITATIONS AND EXCLUSIONS THAT MAY APPLY TO YOU. THIS DOCUMENT CONTAINS A DISPUTE RESOLUTION CLAUSE.

This Agreement contains the terms and conditions that apply to purchases by Home, Home Office, and Small Business customers from the Dell entity named on the invoice ("Dell") that will be provided to you ("Customer") on orders for computer systems, related products, and/or services and support sold by Dell in the United States. By accepting delivery of the computer systems, other products, and/or services and support described on that invoice, Customer agrees to be bound by and accepts these terms and conditions. If for any reason Customer is not satisfied with a Dell-branded hardware system, Customer may return the system under the terms and conditions of Dell's Total Satisfaction Return Policy, which is located online at www.dell.com/us/en/gen/misc/policy_010_policy.htm or may be found in the documentation accompanying the system.

THESE TERMS AND CONDITIONS APPLY (I) UNLESS THE CUSTOMER HAS SIGNED A SEPARATE PURCHASE AGREEMENT WITH DELL, IN WHICH CASE THE SEPARATE AGREEMENT SHALL GOVERN; OR (II) UNLESS OTHER DELL STANDARD TERMS APPLY TO THE TRANSACTION.

These terms and conditions are subject to change without prior written notice at any time, in Dell's sole discretion.

1 Other Documents.

Other than as specifically provided in any separate formal purchase agreement between Customer and Dell, these terms and conditions may NOT be altered, supplemented, or amended by the use of any other document(s). Any attempt to alter, supplement or amend this document or to enter an order for product(s) which is subject to additional or altered terms and conditions will be null and void, unless otherwise agreed to in a written agreement signed by both Customer and Dell.

2 Governing Law.

THIS AGREEMENT AND ANY SALES THEREUNDER SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS, WITHOUT REGARD TO CONFLICTS OF LAWS RULES.

3 Payment Terms; Orders; Quotes; Interest.

Terms of payment are within Dell's sole discretion, and unless otherwise agreed to by Dell, payment must be received by Dell prior to Dell's acceptance of an order. Payment for the products and services and support may be made by credit card, wire transfer, or some other prearranged payment method unless Dell has agreed to credit terms. Invoice amounts are due and payable within the time period noted on the reverse side of the invoice, measured from the

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date of the invoice. Dell may invoice parts of an order separately. Orders are not binding upon Dell until accepted by Dell. Any quotations given by Dell will be valid for the period stated on the quotation. Customer agrees to pay interest on all past-due sums at the highest rate allowed by law.

4 Shipping Charges; Taxes.

Separate charges for shipping and handling will be shown on the invoice(s). Unless Customer provides Dell with a valid and correct tax exemption certificate applicable to the product shipped to location prior to Dell's acceptance of the order, Customer is responsible for sales and all other taxes associated with the order, except for Dell's franchise taxes and taxes on Dell's net income. If applicable, a separate charge for taxes will be shown on the invoice.

5 Title; Risk of Loss.

Title to products passes from Dell to Customer on shipment from Dell's facility. Loss or damage that occurs during shipping by a carrier selected by Dell is Dell's responsibility. Loss or damage that occurs during shipping by a carrier selected by Customer is Customer's responsibility. Title to software will remain with the applicable licensor(s).

6 Warranties.

THE LIMITED WARRANTIES APPLICABLE TO DELL-BRANDED PRODUCTS ARE INCLUDED IN THE DOCUMENTATION PROVIDED WITH THE PRODUCTS AND CAN ALSO BE LOCATED ONLINE AT WWW.DELL.COM/US/EN/GEN/MISC/POLICY_010_POLICY.HTM. THERE ARE NO WARRANTIES FOR SERVICES. DELL MAKES NO EXPRESS WARRANTIES EXCEPT THOSE STATED IN DELL'S APPLICABLE WARRANTY STATEMENT IN EFFECT ON THE DATE OF THE INVOICE. ANY SUCH WARRANTIES WILL BE EFFECTIVE, AND DELL WILL BE OBLIGATED TO HONOR ANY SUCH WARRANTIES, ONLY UPON DELL'S RECEIPT OF PAYMENT IN FULL FOR THE ITEM TO BE WARRANTED.

7 Software.

All software is provided subject to the license agreement that is part of the package. Customer agrees to be bound by the license agreement once the package is opened or its seal is broken. Dell does not warrant any software under this Agreement. Warranties, if any, for the software are contained in the license agreement that governs its purchase and use.

8 Return Policies.

Dell-branded hardware systems and parts that are purchased directly from Dell by an end-user Customer may be returned by Customer in accordance with Dell's Total Satisfaction Return Policy in effect on the date of the invoice. Dell's Total Satisfaction Return Policy can be found at www.dell.com/us/en/gen/misc/policy_010_policy.htm or in the documentation provided with the Dell-branded systems.

9 Exchanges.

From time to time Dell may, in its sole discretion, exchange products or portions of a product. Any exchanges will be made in accordance with Dell's exchange policies in effect on the date of the exchange.

10 Products.

Dell continually upgrades and revises its products and service offerings to provide Dell customers with new products and service offerings. Dell may revise and discontinue products at any time without prior notice to customers. Dell will ship products that have the functionality and performance of the products ordered, but changes between what is shipped and what is described in a specification sheet or catalog are possible. The parts and assemblies used in building Dell™ products are selected from new and equivalent-to-new parts and assemblies in accordance with industry practices. Spare parts may be new or reconditioned. The quoted Dell SKU numbers for Dell-branded hardware products are of the quantity specified by Dell and conform in all material respects with the Dell product specifications current on the date such products were shipped.

11 Dell Software and Peripherals Division Products.

Any warranty and technical support provided on third-party products purchased through Dell's Software and Peripherals Division are provided by the original manufacturer and not by Dell. These products may be returned only in accordance with the return policy in effect on the date of invoice. The warranties and technical support may vary from product to product. Dell-branded products purchased through Dell's Software and Peripherals Division carry the same warranty terms as described in Section 6, Warranties, above. For Small and Medium Business Customers, all non-defective products purchased through Dell's Software and Peripherals Division that are returned to Dell are subject to a fifteen percent (15%) restocking fee. For more information on Dell's Software and Peripherals Division Warranty and Returns Policies, see the applicable consumer or commercial segment Web page.

12 Limitation of Liability.

DELL DOES NOT ACCEPT LIABILITY BEYOND THE REMEDIES SET FORTH HEREIN, INCLUDING ANY LIABILITY FOR PRODUCTS NOT BEING AVAILABLE FOR USE OR FOR LOST OR CORRUPTED DATA OR SOFTWARE, OR THE PROVISION OF SERVICES AND SUPPORT. DELL WILL NOT BE LIABLE FOR LOST PROFITS, LOSS OF BUSINESS OR OTHER CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY THIRD PARTY EXCEPT AS EXPRESSLY PROVIDED HEREIN. CUSTOMER AGREES THAT FOR ANY LIABILITY RELATED TO THE PURCHASE OF PRODUCTS OR SERVICES BUNDLED WITH THE PRODUCTS, DELL IS NOT LIABLE OR RESPONSIBLE FOR ANY AMOUNT OF DAMAGES ABOVE THE AGGREGATE DOLLAR AMOUNT PAID BY CUSTOMER FOR THE PURCHASE OF PRODUCTS OR SERVICES UNDER THIS AGREEMENT.

13 Binding Arbitration.

ANY CLAIM, DISPUTE, OR CONTROVERSY (WHETHER IN CONTRACT, TORT, OR OTHERWISE, WHETHER PREEXISTING, PRESENT OR FUTURE, AND INCLUDING STATUTORY, COMMON LAW, INTENTIONAL TORT, AND EQUITABLE CLAIMS) AGAINST DELL, its agents, employees, successors, assigns, or affiliates (collectively for purposes of this paragraph ("Dell"), arising from or relating to this Agreement, its interpretation, or the breach, termination, or validity thereof, the relationships which result from this Agreement (including, to the

full extent permitted by applicable law, relationships with third parties who are not signatories to this Agreement), Dell's advertising, or any related purchase SHALL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION ADMINISTERED BY THE NATIONAL ARBITRATION FORUM (NAF) under its Code of Procedure then in effect (available via the Internet at www.arb-forum.com, or via telephone at 1-800-474-2371). The arbitration will be limited solely to the dispute or controversy between Customer and Dell. Any award of the arbitrator(s) shall be final and binding on each of the parties and may be entered as a judgment in any court of competent jurisdiction. Information may be obtained and claims may be filed with the NAF or at P.O. Box 50191, Minneapolis, MN 55405.

14 Applicable Law; Not for Resale or Export.

Customer agrees to comply with all applicable laws and regulations of the various states and of the United States. Customer agrees and represents that it is buying for its own internal use only, and not for resale or export. Dell has separate terms and conditions governing resales and transactions outside the United States.

15 Service and Support.

Dell will provide general technical support to Customer in the United States, in accordance with the then-current technical support policies in effect. Service offerings may vary from product to product. If Customer purchased optional services and support, Dell and/or a third-party service provider will provide the optional service and support to Customer in the United States in accordance with the then-current terms and conditions in the optional service contract between Dell and/or the third-party service provider and Customer (available via the Internet on Dell's website at support.dell.com/us/en/scontracts/ or by contacting one of the following numbers: Dell Home Systems Customer Care at 1-800-624-9897; Business Sales Division Customer Care at 1-877-773-3355 or 1-877-671-3355 or as mailed to Customer). Dell and/or the third-party service provider may, at their discretion, revise their general and optional service and support programs and the terms and conditions that govern them. The optional services and support programs and their terms and conditions in place at the time of purchase will apply to Customer's purchase. Dell has no obligation to provide service or support until Dell has received full payment for the product or service/support contract for which service or support is requested.

16 Headings.

The section headings used herein are for convenience of reference only and do not form a part of these terms and conditions, and no construction or inference shall be derived therefrom.

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